

UNITED STATES DISTRICT COURT

for the
Northern District of New York

UNITED STATES OF AMERICA

v.

BENJAMIN J. VARIEUR,

Defendant.

)

)

)

)

)

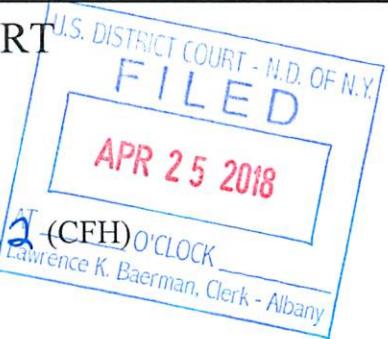
)

Case No. 18-MJ-*222*

(CFH)

AT O'CLOCK

Lawrence K. Baerman, Clerk - Albany



CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief. On or about the dates of March 22-23, 2018, in the county of Saratoga in the Northern District of New York, and elsewhere, the defendant violated:

Code Section
Title 18 United States Code, Sections
2252A(a)(2)(A) and 2252A(b)(1).

Offense Description
Receipt of child pornography

This criminal complaint is based on these facts:
Please see attached affidavit.

Continued on the attached sheet.

Attested to by the Applicant in Accordance with
the Requirements of Rule 4.1 of the Federal
Rules of Criminal Procedure.

Sworn to before me and signed in my presence.

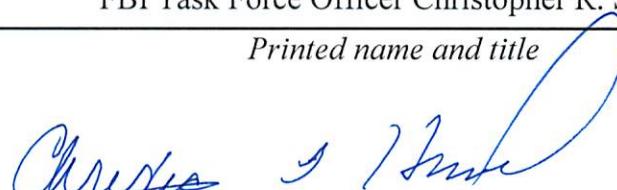
Date: April 25, 2018

City and State: Albany, New York


Complainant's signature

FBI Task Force Officer Christopher R. Smith

Printed name and title


Judge's signature

Hon. Christian F. Hummel, U.S. Magistrate Judge

Printed name and title

Affidavit in Support of a Criminal Complaint

I, Christopher R. Smith, being duly sworn, depose and state:

Introduction

1. I make this affidavit in support of a criminal complaint charging Benjamin J. Varieur (“Varieur”) with knowingly receiving child pornography that has been transported using any means or facility of interstate or foreign commerce or in or affecting interstate or foreign commerce by any means, including by computer, in violation of Title 18 United States Code, Sections 2252A(a)(2)(A) and 2252A(b)(1).

2. I have been employed as a Town of Colonie Police Officer since 2004 and Investigator since 2009. I also serve as a Task Force Officer with the Federal Bureau of Investigation, investigating federal violations concerning child pornography and the sexual exploitation of children as part of the FBI-led Child Exploitation Task Force. I have gained experience through training, investigative techniques, and everyday work related to these types of investigations. I have participated in the execution of numerous warrants involving the search and seizure of computers, computer equipment, software, and electronically stored information.

3. I am an investigative or law enforcement officer of the United States within the meaning of Title 18, United States Code, Section 2510(7), that is, I am an officer of the United States who is empowered by law to conduct investigations of offenses enumerated in Title 18, United States Code, Section 2516(1). I am also authorized to seek and execute federal arrest and search warrants for Title 18 criminal offenses.

4. The statements contained in this affidavit are based upon my investigation, information provided by other law enforcement officers and FBI personnel, and on my experience and training. As this affidavit is being submitted for the limited purpose of securing a

criminal complaint, I have not included each and every fact known to me concerning this investigation.

Basis for a Probable Cause Finding

5. In March 2018, the Child Exploitation Task Force developed information that two (2) individuals residing in the Capital Region were using Wickr Me, a phone messaging application, to trade child pornography using encrypted messages that expired within about six (6) days of being sent. One of these individuals had the screen name “durb30,” the other “bigman6012.” As discussed below, Varieur is bigman6012.

6. I have received and reviewed some of the communications exchanged between these individuals, which demonstrate that bigman6012 received child pornography via the Internet from durb30. From March 22 to March 23, for example, durb30 and bigman6012 exchanged the following messages on the Wickr Me platform. (When an image was sent instead of a text message, I describe the image.)

March 22, 2018

Durb30: 8:41PM Hey lemme know when you want to hang again

Bigman6012: 11:31PM Hey how r things

Durb30: 11:51PM Pretty good, u?

March 23, 2018

Bigman6012: 12:12AM Good I have a girl friend now

Durb30: 12:24AM Oh cool

Bigman6012: 7:51AM Have anything new to share

Durb30: 12:20PM An image is sent to the bigman6012 account of a prepubescent female approximately two or three years old. The female is naked with her legs spread exposing her genitals. The female has an adult male's erect penis in her right hand.

Durb30: 12:20PM An image is sent to the bigman6012 account of a prepubescent female approximately four or five years old. The female is naked and lying on her back with her legs spread exposing her genitals.

Durb30: 12:42PM An image is sent to the bigman6012 account of a prepubescent female approximately four or five years old in a prone position on her knees. The female is spreading her buttocks exposing her anus and vagina.

Bigman6012: 1:15PM Hot damn more more

Bigman6012: 1:16PM So I moved in with my girlfriend she has a 10 year old daughter
damn

Durb30: 1:44PM An image is sent to the bigman6012 account of a prepubescent female approximately four or five years old. The female is naked and lying on her back with her legs spread exposing her genitals.

Durb30: 1:44PM An image is sent to the bigman6012 account of a prepubescent female approximately three or four years old. The female is partially clothed lying on her back with her knees pulled up to her chest. The child's pants are pulled down exposing her genitals and anus.

Bigman6012: 1:45PM Yummy

Bigman6012: 1:45PM More more lol

Durb30: 1:48PM An image is sent to the bigman6012 account of a prepubescent female approximately five or six years old. The female is naked and lying on her back. The

female is bound by a black rope at her ankles, thighs, wrists and neck. The female has a black mask on and her legs are spread exposing her genitals.

Durb30: 1:48PM U see craigslist shut down the personals section?

Bigman6012: 1:51PM I didn't wow that's crazy

Bigman6012: 1:51PM Do u have more. Tied up

Durb30: 3:42PM An image is sent to the bigman6012 account of a prepubescent female approximately eight or nine years old. The female is naked and lying on her back. The female is bound by a yellow rope at her thighs, ankles and wrists. There is a black rope around the female's neck. The female's legs are spread exposing her genitals.

Bigman6012: 5:06PM She is the beat

Bigman6012: 5:06PM Best

Bigman6012: 5:06PM More

Durb30: 5:08PM No more tied up ones

Durb30: 5:08PM An image is sent to bigman6012 of a female performing oral sex on a male. The approximate age is not known.

Bigman6012: 5:08PM What a good girl

Bigman6012: 5:08PM Wish u had videos

Bigman6012: 5:08PM The one I'm living with this so nice

Bigman6012: 8:38PM What are you up to

Durb30: 8:40PM Nothing right now. Meeting up with some friends in a little bit

Bigman6012: 8:40PM Fun fun definitely go to hang out soon

Bigman6012: 8:40PM Can I get a hookup on some more pics

Durb30: 8:42PM What do u mean a hookup

Bigman6012: 8:42PM Can I see some more pictures LOL

Bigman6012: 8:42PM And I'm trying to get some of my own LOL

Durb30: 8:43PM Oh ok haha

Bigman6012: 8:43PM What did you think I meant LOL

Durb30: 8:44PM I thought u were talking like other people

Bigman6012: 8:44PM I wish you are the only one I got

Durb30: 8:45PM An image is sent to the bigman6012 account of a prepubescent female approximately nine or ten years old lying on her back. The female is naked from the waist down with her legs spread exposing her genitals. An adult is placing two fingers in the female's vagina.

Bigman6012: 8:45PM Yummy any redheads

Durb30: 8:46PM An image is sent to the bigman6012 account of a prepubescent female approximately ten or eleven years old who is completely naked sitting with her legs crossed. The female is bound with white rope at her ankles, thighs, waist, wrists, abdomen, elbows, chest and neck. The rope is run through the female's vagina and a gag is placed in the female's mouth.

Durb30: 8:46PM An image is sent to the bigman6012 account of a prepubescent female approximately five or six years old who is completely naked lying on her back. The female has red hair with her legs spread exposing her genitals.

Durb30: 8:48PM An image is sent to the bigman6012 account of a prepubescent female approximately three or four years old who is completely naked in a squatting position. The female's legs are spread exposing her genitals.

Bigman6012: 8:48PM Oh my God keep them coming

Durb30: 8:49PM An image is sent to the bigman6012 account of a prepubescent female approximately four or five years old who is completely naked sitting on a toilet seat. The female's legs are spread exposing her genitals.

Durb30: 8:49PM An image is sent to the bigman6012 account of a prepubescent female approximately four or five years old who is naked from the waist down. The female is in a sitting position with her back against a wall. The female is holding an adult male's erect penis against her vagina.

Bigman6012: 8:50PM They know what they're good for

Durb30: 8:50PM An image is sent to the bigman6012 account of a female approximately twelve or thirteen years old. The female is lying on her back and is completely naked with her legs spread exposing her genitals.

Bigman6012: 8:53PM around that age

Durb30: 8:55PM An image is sent to the bigman6012 account of a female approximately thirteen or fourteen years old who is completely naked. The female is standing in a mirror and shows her breasts and vagina.

Durb30: 8:55PM An image is sent to the bigman6012 account of a female approximately fourteen or fifteen years old who is completely naked. The female is kneeling on a bed and shows her breasts and vagina.

Bigman6012: 8:56PM Yes

Durb30: 8:57PM An image is sent to the bigman6012 account of a prepubescent female approximately six or seven years old of her torso and face. The female is not wearing a shirt and shows her bare chest.

Durb30: 8:59PM An image is sent to the bigman6012 account of a female of unknown age. The female is completely naked and lying on her back with her legs spread. The female is placing a sexual device into her vagina.

Bigman6012: 9:23PM Yummy

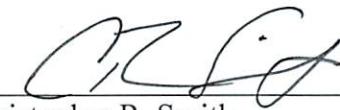
7. The Task Force identified Varieur as “bigman6012,” and on April 23, 2018, obtained a federal warrant to search his person, Cadillac Escalade, phone(s), and any other electronic devices or digital storage devices located during the execution of the warrant. We executed the search warrant on April 24, in Saratoga Springs, Saratoga County.

8. During the search, I interviewed Varieur while both of us were outside of a residence in Saratoga Springs where he had been living for a few months (having previously been a longtime resident of the Town of Brunswick, New York). He was not in custody. Varieur admitted to being “bigman6012” on the Wickr Me application and to communicating with a subject known as “durb30.” Varieur stated that he had the Wickr Me application on his cell phone, and that he and durb30 used the Wickr Me service to share images of child pornography. Varieur stated that he both sent and received child pornography images on the Wickr Me application and that there were likely child pornography images stored on his cell phone. Several images exchanged between durb30 and the bigman6012 were shown to Varieur, some of which he recognized as being part of a known child pornography series.

9. A preliminary forensic examination was conducted on Varieur’s ZTE cellular telephone, which was found in a pants pocket. Approximately nineteen (19) images of child pornography were identified. The images depicted prepubescent male and female children engaged in sexually explicit conduct with adult males and females.

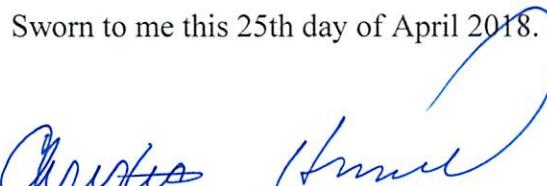
Conclusion

10. Based upon the above information, there is probable cause to conclude that from March 22, 2018 to March 23, 2018, Benjamin J. Varieur received child pornography in violation of Title 18 United States Code, Sections 2252A(a)(2)(A) and 2252A(b)(1). I respectfully ask that the Court sign a criminal complaint charging him with this crime.



Christopher R. Smith
Task Force Officer
Federal Bureau of Investigation

Sworn to me this 25th day of April 2018.



Hon. Christian F. Hummel
United States Magistrate Judge